



## **Testimony on Senate Bill 963 (S-1)**

### **House Regulatory Reform Committee**

November 30<sup>th</sup>, 2016

Good morning ladies and gentlemen the committee. Thank you for this opportunity to be heard at these proceedings. My name is Brindley Byrd, executive director of the Michigan Air Conditioning Contractors Association (MIACCA). Our core members are Michigan licensed mechanical contractors. Men and women who work for companies that keep our homes and businesses warm in the winter and cool summer.

We would like to acknowledge the hard work put into this package by Senator Horn, his staff and those in the Dept. of Licensing and Regulatory Affairs. The primary goal of streamlining the very complex world of building trades licensing is laudable and one MIACCA supports.

We further acknowledge the promise made by Senator Horn to minimize amendments to the five (5) statutes repealed and inserted into this bill that have regulated the construction and maintenance of Michigan's built environment for decades. From MIACCA's perspective, this promise has been kept.

One real potential positive out-come of this proposed act is the development and deployment of a statewide building permit application leveraging the Department's new Accela database. Ease of submitting and tracking of building permits ensures public safety and compliance with building code.

We did and have respected another condition established by the Senator – keeping issues of policy separate from those of legislation. Now here in the House, we'd like to bring to light concerns we know exist making SB963 not much more than a façade.

As recorded in the January 6<sup>th</sup>, 2016 Construction Code Commission approved meeting minutes, on the item relating to Executive Regulatory Order 1996-02, the minutes read, "Due to the Executive Order, the functions of the boards and commissions are now being handled by the department." After significant uproar by Commissioners, Board members and industry

stakeholders, during the beginning months of the year, this position was altered somewhat in the April 6<sup>th</sup>, 2016 meeting where the then out-going Bureau of Construction Codes (BCC) director advised the Commission, "...that the only functions being removed from the commissions and boards are the licensing functions."

So now, when reading this bill and seeing the word 'board' or 'commission', MIACCA sees 'department'. And when we see department, we know that really means BCC staff, acting at times unilaterally without any board or commission input on matters other than licensing causing detriment to the industry and consumers.

MIACCA wonders how can state regulators continue to function without oversight and protection provided by citizens' boards appointed by the sitting Governor to advise on matters where the public health and safety are at stake? We are further concerned that SB963 is not just streamlining government, but actually consolidating power to a handful of bureaucrats who could easily act as autocrats when it comes to regulating Michigan's built environment.

Taken at face value, MIACCA would support Senate Bill 963, with noted concerns about licensing limitations, issuance of temporary licenses, and no mention of restraint against frivolous claims being made of unlicensed activity. Now in a period of building trades regulation being somewhat seized by the Department, MIACCA finds it difficult to support the Skilled Trades Act.

We refer the Committee to Language Comments - Attachment 1 of our written testimony showing subtle ways the Skilled Trades Act allows for complete authority over aspects of free trade and fair competition in Michigan's construction industry and MIACCA's suggestions to ensure citizen oversight of government regulation.

I would like to thank you for this chance to have an open discussion about these issues and be happy to take any questions.

Respectfully submitted,



Brindley Byrd

Executive Director



## Language Comments - Attachment 1

- 1) Need to include additional BCC action of “regulatory control without Board approval” as done with the Mechanical Declaratory Ruling (located at: [http://www.michigan.gov/documents/lara/lara\\_bcc\\_Mechanical\\_Declaratory\\_Ruling\\_534707\\_7.pdf](http://www.michigan.gov/documents/lara/lara_bcc_Mechanical_Declaratory_Ruling_534707_7.pdf) and the “2015 Michigan Residential Code Errors and Conflicts” self-made declaration (located at: [http://www.michigan.gov/documents/lara/2015\\_Michigan\\_Residential\\_Code\\_Errors\\_and\\_Conflicts\\_525447\\_7.pdf](http://www.michigan.gov/documents/lara/2015_Michigan_Residential_Code_Errors_and_Conflicts_525447_7.pdf)).
- 2) The Dept. must be required to get appropriate Board approval on all proposed rules other than those rules concerning fees. Sec. 207(1) [pp. 11-12] only requires the Dept. to “consult with the appropriate board” and not obtain the Board’s approval.
- 3) Sec. 207(4) [p. 12] the Dept. must not be allowed to promulgate rules without obtaining approval from the appropriate board that “set the minimal standards of acceptable practice for an occupation”. Currently Sec. 207(4) does not even require the Dept. to consult with the appropriate board. This could be used by the Dept. to require journeyman/apprentice seeing that “minimal standards of acceptable practice for an occupation” is not defined in Article 1 and is used in the definition of “Incompetence” Sec. 105(g) [p. 4]. The Boards must set the “minimal standards of acceptable practice for an occupation”.
- 4) Sec. 507(2) [p.29], “or may appeal to the appropriate board within 30 days” should be added to the last sentence [line 11]. All the Dept. has to do in its report is not disclose a violation of the Act or rule and the complaint shall be closed.



## Language Comments - Attachment 1 cont.

5) Sec. 533 (p. 34), petitioning the Dept. within 30 days for a review of a “limitation” that the Dept. placed on a license due to the Board not taking action within 60 days (Sec. 203(3) [pp.9-10]) does not provide for Board oversight. Changing 60 days to 90 days would then ensure a petition filed against a sanction will be heard by a board.

6) Sec. 807(1) [p. 72] should include the “notarized work experience” language from the mechanical contractor of record found in Sec. 221 [p. 16] for the Dept. issuing reciprocal licenses.

7) Sec. 807(2) [p. 72] should have the Mechanical license categories reconciled with those listed in the Mechanical Rules and those listed on the actual licenses issued to contractors.

